

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

FRANCISCO SIERRA,

Plaintiff,

v.

HOLMES,

Defendant.

Case No.: 1:22-cv-00964-ADA-SAB (PC)

ORDER DENYING REQUEST TO ENFORCE  
SETTLEMENT AGREEMENT AS  
PREMATURE

(ECF No. 28)

Plaintiff Francisco Sierra ("Plaintiff") is a state prisoner who proceeded *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 3, 2023, a settlement conference was held before the undersigned. The terms and conditions of the settlement agreement were placed on the record. (ECF No. 24.)

On May 24, 2023, the parties filed a stipulation to dismiss this action with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), (ECF No. 26), and the action was terminated by operation of law, (ECF No. 27).

Currently before the Court is Plaintiff's motion to enforce the settlement agreement, filed August 28, 2023. (ECF No. 28.) In his motion, Plaintiff states that he has not received the agreed-upon settlement funds. (*Id.*)

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1 As noted in the settlement terms placed on the record on May 3, 2023, the agreed payment  
2 from Defendant could take as long as one-hundred eighty (180) days from completion of all  
3 necessary settlement paperwork. Dispositional documents were filed in this action on May 24,  
4 2023, which is only ninety-six (96) days from the date of filing of Plaintiff's motion to enforce  
5 the settlement agreement. As the full 180 days has not yet expired, Plaintiff's motion for  
6 enforcement of the settlement agreement is premature.

7 Accordingly, Plaintiff's motion to enforce the settlement agreement, (ECF No. 28), is  
8 DENIED, without prejudice, as premature.

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10 IT IS SO ORDERED.

11 Dated: August 29, 2023

/s/ Barbara A. McAuliffe  
12 UNITED STATES MAGISTRATE JUDGE  
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